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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,217	10/28/2003	David Emil Edgren	AR02164USADIV2	7320

27777 7590 09/13/2004  
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EXAMINER

WEBMAN, EDWARD J

ART UNIT PAPER NUMBER

1617

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES DEPARTMENT OF COMMERCE

## Patent and Trademark Office

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10/696217

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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8/11/04

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

## OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/1/04

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-3, 5, 6 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-3, 5, 6 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2/19/04

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

—SEE OFFICE ACTION ON THE FOLLOWING PAGES—

Art Unit: 1617

The election of species requirements are withdrawn

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Husbands et al '501 in view of Theeuwes '201 and Fuisz.

Husbands et al '501 teach substituted phenylacetamides such as venlafaxine as antidepressants (column 8, lines 23-27). Delivery by "any of the usual dosage forms, including tablets and capsules", is disclosed (column 10, lines 35-37).

Theeuwes '201 teaches an osmotic device for delivery of an agent at a controlled rate comprising an agent, a compartment, a semipermeable wall, a passageway and a member which increases in volume to release the agent (abstract). Antidepressants are specified (column 10, line 22). Delivery of highly soluble agents is disclosed (column 2 lines 6-11).

It would have been obvious to one of ordinary skill to deliver the antidepressant of Husbands et al '501 in the vehicle of Theeuwes '201 to achieve the beneficial effect of delivery at a controlled rate.

As to the claimed cellulose and poly (alkylene oxide) polymer carriers, Theeuwes '201 teaches hydroxyethyl cellulose and polyoxalkylene ethers (column 12 lines 23-30). As to the claimed malt dextrin, Fuisz teaches its equivalence as a carrier to hydroxyethyl cellulose (column 5 lines 10-22).

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No claim allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (571) 272-0633. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Webman/LR  
August 13, 2004

  
EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 1500